

NEBRASKA ADMINISTRATIVE CODE

TITLE 270 - NEBRASKA BOARD OF PAROLE

Chapter 3 - Agency Organization, Authority, and Responsibility

001 There is hereby created the Board of Parole. For administrative purposes only, the board shall be within the Board of Pardons. Nothing in the Nebraska Treatment and Corrections Act shall be construed to give the director or the Board of Pardons any authority, power, or responsibility over the Board of Parole, its employees, or the exercise of its functions under the provisions of the act. The employees of the Board of Parole shall be covered by the State Personnel System.

002 The Board of Parole shall consist of five full-time members to be appointed by the Governor.

002.01 The members of the board shall be of good character and judicious temperament.

002.02 The members of the board shall have all the powers and duties of board members commencing on the date of appointment.

002.03 The appointments shall be subject to confirmation by the Legislature at its next regular session following the appointments.

002.04 At least one member shall be of an ethnic minority group.

002.05 At least one member shall be female.

002.06 At least one member shall have a professional background in corrections.

002.07 One of the five members of the board shall be designated as chairperson by the Governor. In addition to the chairperson's duties as prescribed in subsection (1) of section 83-192, he or she shall supervise the administration and operation of the board and shall carry out the duties prescribed in subsection (2) of such section.

003 The members of the Board of Parole shall have terms of office of six years and until their successors are appointed.

003.01 The successors shall be appointed in the same manner as provided for the members first appointed, and a vacancy occurring before the expiration of a term of office shall be similarly filled for the unexpired term.

003.02 A member of the board may be reappointed.

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003.03 The members of the board may be removed only for disability, neglect of duty, or malfeasance in office by the Board of Pardons after a hearing. The Board of Pardons shall promptly file in the office of the Secretary of State a complete statement of the charges, its findings and disposition, and a complete record of the proceedings.

004 The members of the board shall devote full time to their duties with such board and shall not engage in any other business or profession or hold any other public office.

004.01 No member shall, at the time of his or her appointment or during his or her tenure, serve as a representative of any political party or of any executive committee or governing body thereof or as an executive officer or employee of any political party, organization, association, or committee. A member shall resign from the board upon filing as a candidate for any elective public office.

004.02 Each member of the Board shall receive an annual salary to be fixed by the Governor. On and after July 1, 1993, such salaries shall be paid in equal monthly portions.

005 The Board of Parole shall:

005.01 Determine the time of release on parole of committed offenders eligible for such release.

005.02 Fix the conditions of parole, revoke parole, issue or authorize the issuance of warrants for the arrest of parole violators, and impose other sanctions short of revocation for violation of the conditions of parole.

005.03 Determine the time of discharge from parole.

005.04 Visit and inspect any facility, state or local, for the detention of persons charged with or convicted of an offense and for the safekeeping of such other persons as may be remanded to such facility in accordance with law.

005.05 Within two years after July 1, 1994, implement objective parole risk-assessment criteria (meaning criteria which statistically have been shown to be good predictors of risk to society of release on parole) which shall be used by the members of the board as additional considerations in determining whether to grant or deny parole to any particular offender who is eligible for parole.

005.06 Review the record of every committed offender as follows:

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005.06A If a committed offender has a parole eligibility date within five years of his or her date of incarceration, his or her record will be reviewed annually.

005.06B If a committed offender has a parole eligibility date which is more than five but not more than ten years from the date of his or her incarceration, his or her record shall be reviewed during the first year of incarceration, and when he or she is within three years of his or her earliest parole eligibility date, his or her record shall be reviewed annually.

005.06C If a committed offender has a parole eligibility date which is more than ten but not more than thirty years from his or her date of incarceration, his or her record shall be reviewed during the first year of incarceration, every five years thereafter until he or she is within five years of his or her earliest parole eligibility date, and annually thereafter.

005.06D If a committed offender has a parole eligibility date which is more than thirty years from his or her date of incarceration, his or her record shall be reviewed during his or her first, tenth, and twentieth year of incarceration, and when he or she is within five years of his or her earliest parole eligibility date, his or her record shall be reviewed annually.

005.06E If a committed offender is serving a minimum life sentence, his or her record shall be reviewed during the first year of incarceration and every ten years thereafter until such time as the sentence is commuted. If such sentence is commuted, the committed offender's record shall be reviewed annually when he or she is within five years of his or her earliest parole eligibility date.

Such review shall include the circumstances of the offense, the presentence investigation report, the committed offender's previous social history and criminal record, his or her conduct, employment, and attitude during commitment, and the reports of such physical and mental examinations as have been made. The board shall meet with such committed offender and counsel him or her concerning his or her progress and prospects for future parole.

The review schedule shall be based on court-imposed sentences or statutory minimum sentences, whichever are greater. Nothing in such schedule shall prohibit the board from reviewing a committed offender's case at any time.

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005.07 Appoint and remove employees of the board as proscribed by the State Personnel System and delegate appropriate powers and duties to them.

005.08 Exercise all powers and perform all duties necessary and proper in carrying out its responsibilities of the board under the Nebraska Treatment and Corrections Act.

006 The chairperson of the board shall:

006.01 Supervise the administration and operation of the board.

006.02 Serve in an advisory capacity to the director in administering parole services within any facility and in the community.

006.03 Interpret the parole program to the public with a view toward developing a broad base of public support.

006.04 Conduct research for the purpose of evaluating and improving the effectiveness of the parole system.

006.05 Recommend parole legislation to the Governor.

006.06 Adopt and promulgate rules and regulations for the administration and operation of the board.

006.07 Exercise all other powers and perform all other duties as necessary and proper in carrying out his or her responsibilities as chairperson.

007 The provisions of this section shall not prohibit a committed offender from requesting that the board review his or her record, except that the board shall not be required to review a committed offender's record more than once a year.

008 The Board of Parole shall not have jurisdiction over persons who are committed to the Department of Correctional Services after being found neglected, dependent, delinquent or in need of special supervision in accordance with the provisions of Chapter 43, article 2.

009 The Board of Parole shall, when requested by the Board of Pardons, advise it concerning applications requesting the exercise of pardon authority and shall make such investigation and collect such records as may bear on such applications.

010 In the performance of its duties, the Board of Parole, or any member thereof, shall have the power to issue subpoenas, to compel the attendance of witnesses and the production of books, papers, and other documents pertinent to the subject of an

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inquiry, and to administer oaths and take the testimony of persons under oath. Subpoenas so issued may be served by any sheriff, constable, police officer, parole officer, or peace officer in the same manner as similar process in the district court. Any person who knowingly testifies falsely, submits any false affidavit or deposition, fails to appear when subpoenaed, or fails or refuses to produce such material pursuant to the subpoena shall be subject to the same orders and penalties to which a person before the district court is subject. Any district court of this state, upon application by the board, may compel the attendance of such witnesses, the production of such material, and the giving of testimony before the board by an attachment for contempt or otherwise in the same manner as production of evidence may be compelled before such court. Every person shall attend as a witness when subpoenaed anywhere within the state, and shall be entitled to the same fees, if requested, as a witness in the district court and mileage as provided in section 81-1176 for state employees. Fees, mileage, and actual expense, if any, necessarily incurred in securing the attendance of witnesses shall be paid by the board.

011 Three members of the Board of Parole shall constitute a quorum for the purpose of transacting any official business. The decisions of the Board of Parole shall be by majority vote. The board shall keep a record of its acts and shall notify the Director of Correctional Services of its decisions relating to offenders who are or have been committed.

012 The Board of Parole shall have the power to direct the Director of Correctional Services to keep records concerning committed offenders which the board deems pertinent to its functions.

013 A person shall be guilty of a felony if he threatens or attempts to threaten harm to a member of the Board of Parole with a purpose to influence his decision, opinion, recommendation, vote, or other exercise of discretion as a member of the board, or if he privately addresses to any member of the board any representation, entreaty, which is or may come before the board on the basis of considerations other than those authorized by law, and shall be guilty of a Class IV felony.

014 The provisions of the Administrative Procedure Act shall not apply to the Board of Parole or to the exercise of its functions.

STATUTORY AUTHORITY

83-188 through 83-199

OTHER AUTHORITY

Greenholtz vs. Inmates (1979)